

LAW OFFICES
PINNOLA & BOMSTEIN

MICHAEL S. BOMSTEIN
PETER J. PINNOLA

ELKINS PARK OFFICE
8039 OLD YORK ROAD
ELKINS PARK, PA 19027
(215) 635-3070
FAX (215) 635-3944

100 SOUTH BROAD STREET, SUITE 2126
PHILADELPHIA, PA 19110
(215) 592-8383
FAX (215) 574-0699
EMAIL mbomstein@gmail.com

MT. AIRY OFFICE
7727 GERMANTOWN AVENUE, SUITE 100
PHILADELPHIA, PA 19119
(215) 248-5800
Center City
REPLY TO:

September 24, 2020

Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

Re: Flynn, et al. v. Sunoco Pipeline L.P.,
Docket Nos. C-2018-3006116, P-2018-3006117
DiBernardino, Docket No. C-2018-3005025 (consolidated)
Britton, Docket No. C-2019-3006898 (consolidated)
Obenski, Docket No. C-2019-3006905 (consolidated)
Andover, Docket No. C-2018-3003605

**FLYNN COMPLAINANTS' REPLY TO SUNOCO'S ANSWER
TO MOTION FOR PARTIAL SUMMARY JUDGMENT**

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Flynn Complainants' Reply to Sunoco's Answer to Motion for Partial Summary Judgment.

If you have any questions regarding this filing, please contact the undersigned.

Very truly yours,

/s/ Michael S. Bomstein
MICHAEL S. BOMSTEIN

MSB:mik

cc: Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:	
ROSEMARY FULLER	:	
MICHAEL WALSH	:	
NANCY HARKINS	:	
GERALD MCMULLEN	:	DOCKET NO. C-2018-3006116
CAROLINE HUGHES and	:	DOCKET NO. P-2018-3006117
MELISSA HAINES,	:	DOCKET NO. C-2018-3005025
Complainants	:	DOCKET NO. C-2019-3006898
v.	:	DOCKET NO. C-2019-3006905
	:	DOCKET NO. C-2018-3003605
SUNOCO PIPELINE L.P.,	:	
Respondent	:	

**FLYNN COMPLAINANTS' REPLY TO SUNOCO'S
ANSWER TO MOTION FOR PARTIAL SUMMARY JUDGMENT**

Sunoco has filed an Answer to Flynn Complainants' Motion for Partial Summary Judgment that suggests Flynn counsel proceeded in bad faith. Sunoco counsel attached what purported to be an email exchange between attorneys Bomstein and Sniscak.

Sunoco counsel only saw fit to include two of the three (3) emails between the attorneys. Bomstein's first reply was brief and did not purport to respond in any detail. His second email, however, went into great detail to explain his position.

This was explained in the phone conference with Your Honor on September 23rd. Neither Mr. Sniscak nor any of the other Sunoco counsel on the call denied it. *None of the Sunoco attorneys offered to explain why they deliberately left out the September 6th email.* There is no good faith explanation for Sunoco's deliberate omission.

Below is Bomstein's response to Mr. Sniscak's claims:

Michael Bomstein <mbomstein@gmail.com>

to Thomas, RFox@mankogold.com, Gold,, Gold,, Whitney ↵

Tom,

I have consulted Rich Raiders to discuss this matter further. Incidentally, he is not counsel on the motion and your contact with him was probably inappropriate. I am sure it was not deliberate and will say nothing further of it.

It may not have occurred to you that our inspection in Pittsburgh was constrained by the prohibition on copying and limits on note taking. If there was in fact any kind of risk assessment neither Rich nor I had recollection of it.

I doubt that the document you are now referencing by Bates numbers is what an engineer would consider a proper risk analysis. If you want us to change our minds on that point you will have to share a copy with us. Until then, our belief will remain the same.

Further, I doubt that the document you are referring to is a quantitative risk analysis or that the documents specifically refers to Chester and Delaware Counties. If you wish us to revise our view on that point you will have to share a copy with us.

In addition, I am unaware that the risk analysis required by statute and regs is limited to new construction. I do not know why it does not also apply to new HVL service on old lines that have been converted. I doubt that Sunoco bothered to do that either but, once again, I do not have access to the documents.

Are you prepared to tell me that Sunoco performed a quantitative risk analysis for any of the Mariner pipelines? Are you prepared to share now a copy of whatever it is that you are referring to?

Thank you.

MSB

In light of the above, Complainants are only asking Your Honor to consider the above email in your deliberations relative to our motion.

Respectfully submitted,

/s/ Michael S. Bomstein
Michael S. Bomstein, Esq.
Pinnola & Bomstein
PA ID No. 21328
Email: mbomstein@gmail.com
Suite 2126 Land Title Building
100 South Broad Street
Philadelphia, PA 19110
Tel.: (215) 592-8383
Attorney for Complainants

Dated: September 24, 2020

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the within Reply upon the persons listed below as per the requirements of § 1.54 (relating to service by a party).

See attached service list.

/s/ Michael S. Bomstein
Michael S. Bomstein, Esq.

Dated: September 24, 2020

SERVICE LIST

VIA ELECTRONIC MAIL

Thomas J. Sniscak, Esq.
Whitney E. Snyder, Esq.
Hawke, McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
kjmckeon@hmslegal.com
wesnyder@hmslegal.com

Robert D. Fox, Esq.
Neil S. Witkes, Esq.
Diana A. Silva, Esq.
Manko, Gold, Katcher & Fox LLP
401 City Avenue, Suite 901
Bala Cynwyd, PA 19004
rfox@mankogold.com
nwwitkes@mankogold.com
dsilva@mankogold.com

Anthony D. Kanagy, Esquire
Garrett P. Lent, Esquire
Post & Schell PC
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
akanagy@postschell.com
glent@postschell.com
*Counsel for Intervenor Range Resources –
Appalachia LLC*

Erin McDowell, Esquire
3000 Town Center Blvd.
Canonsburg, PA 15317
emcdowell@rangeresources.com
Counsel for Range Resources Appalachia
Rich Raiders, Esquire
Raiders Law
606 North 5th Street
Reading, PA 19601
rich@raiderslaw.com
*Counsel for Andover Homeowner's
Association, Inc.*

Vincent M. Pompo
Guy A. Donatelli, Esq.
24 East Market St., Box 565
West Chester, PA 19382-0565
vpompo@lambmcerlane.com
gdonatelli@lambmcerlane.com
*Counsel for Intervenors West Whiteland
Township, Downingtown Area School
District, Rose Tree Media School District*

Leah Rotenberg, Esquire
Mays, Connard & Rotenberg LLP
1235 Penn Avenue, Suite 202
Wyomissing, PA 19610
rotenberg@mcr-attorneys.com
*Counsel for Intervenor Twin Valley School
District*

Margaret A. Morris, Esquire
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
mmorris@regerlaw.com
*Counsel for Intervenors East Goshen
Township, County of Chester*

Mark L. Freed
Joanna Waldron
Curtin & Heefner LP
2005 S. Easton Road, Suite 100
Doylestown, PA 18901
mlf@curtinheefner.com
jaw@curtinheefner.com
Counsel for Intervenor Lynchlag Township

James C. Dalton, Esquire
Unruh Turner Burke & Frees
P.O. Box 515
West Chester, PA 19381-0515
jddalton@utbf.com
*Counsel for West Chester Area School
District*

James R. Flandreau
Paul, Flandreau & Berger, LLP
320 W. Front Street
Media, PA 19063
jflandreau@pfbllaw.com
Counsel for Intervenor Middletown Township

Patricia Sons Biswanger, Esquire
217 North Monroe Street
Media, PA 19063
patbiswanger@gmail.com
Counsel for County of Delaware

Joseph Otis Minott, Esquire
Alexander G. Bomstein, Esquire
Ernest Logan Welde, Esquire
Kathryn L. Urbanowicz, Esquire
Clean Air Council
135 South 19th Street, Suite 300
Philadelphia, PA 19103
Joe_minott@cleanair.org
abomstein@cleanair.org
lwelde@cleanair.org
kurbanowicz@cleanair.org
Counsel for Clean Air Council

James J. Byrne, Esquire
Kelly S. Sullivan, Esquire
McNichol, Byrne & Matlawski, P.C.
1223 N. Providence Road
Media, PA 19063
jjbyrne@mbmlawoffice.com
ksullivan@mbmlawoffice.com
Counsel for Thornbury Township, Delaware County

Michael P. Pierce, Esquire
Pierce & Hughes, P.C.
17 Veterans Square
P.O. Box 604
Media, PA 19063
Mppierce@pierceandhughes.com
Counsel for Edgmont Township

Thomas Casey
1113 Windsor Dr.
West Chester, PA 19380
tcaseylegal@gmail.com
Pro se Intervenor

Rebecca Britton
211 Andover Drive
Exton, PA 19341
rbrittonlegal@gmail.com
Pro se Complainant

Melissa DiBernardino
1602 Old Orchard Lane
West Chester, PA 19380
lissdibernardino@gmail.com
Pro se Complainant

Laura Obenski
14 South Village Avenue
Exton PA 19341
ljobenski@gmail.com
Pro se Complainant

Josh Maxwell
Mayor of Downingtown
4 W. Lancaster Avenue
Downingtown, PA 19335
jmaxwell@downingtwn.org
Pro se Intervenor

Virginia Marcille-Kerslake
103 Shoen Road
Exton, PA 19341
vkerslake@gmail.com
Pro Se Intervenor